IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

(1) Arbitration Petition No.146 of 2007
with
(2) Arbitration Petition No.147 of 2007

Mr.Malli Gopinathan Ramlingam ..Petitioner

vs.

The saraswat Cooperative Bank Ltd. and others ..Respondents

Mr.Bagla i/b M/s Bagla Dandekar and Co. for petitioner.
Mr.B.G.Vaidya for respondent no.1.

CORAM: S.C.DHARMADHIKARI J.
29th August, 2007

P.C.

1. These petitions are under section 34 of the Arbitration and Conciliation Act, 1996. After the petitions were argued for some time, Mr.Bagla, upon taking instructions from the petitioner who is present in Court, states that the petitioner does not press the petition and his challenge to the Award. Instead he submits that in both the cases, the awarded amount and interest figure is such as would not be possible for the petitioner to pay up immediately. He seeks some reasonable amount and scaling down of interest. Mr.Vaidya, appears for the respondent No.1 Bank. Mr.Vaidya, after taking instructions from the authorised officer of the first respondent, states that the amount payable under the two awards totally about Rs.71,685.94. This is the liability as on date.

2. Mr.Bagla and Mr.Vaidya take instructions from their respective clients and state that the Court should fix some reasonable figure and it will be acceptable to both the parties being paid in instalments.

3. After considering the rival contentions and perusing the award so also noticing the fact that the claim essentially is of interest, in my view, the following order would meet the ends of justice.

4. Upon the petitioner paying to the first respondent Bank a sum of Rs.60,000/- (Rupees sixty thousand) in ten equal instalments, the first respondent Bank to accept the same in full and final settlement of all its claim against the principal borrower and the guarantors. Mr.Bagla submits that the first instalment of Rs.6,000/- (Rupees six thousand) would be paid on 10th September, 2007 and subsequent instalments on 10th of each subsequent month till the sum of Rs.60,000/- is paid.

5. Needless to state that in default of payment of the first instalment on 10th September, 2007 or any subsequent instalments the entire amount under the Award in question would become due and payable and the first respondent Bank would be at liberty to execute the award in accordance with law and recover the same. Upon payment as per the time stipulated above, the first respondent Bank to accept the amount of Rs.60,000/- in full and final settlement of its claim towards the principal borrower and the

guarantors and close the account accordingly. No due certificate shall therefore follow in both the petitions. Arbitration petitions are disposed of accordingly with no order as to costs.

(S.C.DHARMADHIKARI J.)